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15 IN THE UNITED STATES DISTRICT COURT
16 FOR THE EASTERN DISTRICT OF CALIFORNIA

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18 UNITED STATES OF AMERICA,) Case No. 96-CR-00307-KJM
19 Plaintiff,)
20 v.) STIPULATION AND ORDER REGARDING
21) DEFENDANT'S ADMISSION TO
22) VIOLATION OF TERM OF SUPERVISED
23) RELEASE; DISPOSITION; AND
24) DEFENDANT'S WAIVER OF APPEARANCE
25 DENNIS J. PACHECO,)
26 Defendant.) Judge: Hon. Kimberly J. Mueller
27 _____)

28 The parties, Defendant DENNIS J. PACHECO, represented by Assistant Federal Defender Rachelle Barbour, and the UNITED STATES, represented by Assistant United States Attorney Michele Beckwith, along with the UNITED STATES PROBATION OFFICE, by and through Supervising United States Probation Officer Shannon Morehouse, hereby set forth the following stipulations and requests regarding Mr. Pacheco's admission of a violation of his term of supervised release and the appropriate disposition in this case.

1. In sum, the Defendant, the United States, and the United States Probation Office agree that the appropriate resolution in this case is: (a) for Mr. Pacheco to admit to Charge 3 in the pending Superseding Violation Petition (Document 20, filed February 9, 2012); and (b) for the United States and the United States Probation Office to request that the Court dismiss the

1 remaining charges in the Superseding Violation Petition. Moreover, in light of this agreement,
2 the parties jointly request that this Court find Mr. Pacheco in violation of the terms of his
3 supervised release and sentence him to time served on this violation, with no term of supervision
4 to follow. Should the Court follow this joint request, the parties request that the Court issue an
5 order recalling the arrest warrant in this case.

6 2. In light of this agreed-upon resolution, Mr. Pacheco agrees and stipulates to the
7 following:

8 That he has received the Superseding Violation Petition and has had sufficient time to
9 discuss the violation charges with his counsel, that he understands the charges, and that
10 he wishes to admit to Charge 3 of the Superseding Violation Petition, which charges him
11 with a new law violation evidenced by his conviction in Sacramento County Superior
12 Court case number 10F05795. Mr. Pacheco admits that he did commit such a new law
13 violation. Indeed, he has read and understands the factual basis supporting the alleged
14 new law violation in the Superseding Violation Petition, and he stipulates that the facts
described in that factual basis are accurate. Moreover, Mr. Pacheco admits that the facts
described in that factual basis fully support the charged new law violation. Mr. Pacheco
acknowledges that he is currently serving a state prison sentence on Sacramento case
number 10F05795.

15 Mr. Pacheco acknowledges and understands that his admission concerning Charge 3 of
16 the Superseding Violation Petition provides the Court with a basis to find him in violation
17 of his terms of supervised release. He understands and acknowledges that this admission
18 carries with it potential consequences, including a maximum possible term of
incarceration of two years as discussed in the Revocation Guide at page 8 of Document
20. He agrees with the recommendation that he be sentenced to time served with no term
of supervised release to follow.

19 Mr. Pacheco accordingly knowingly and voluntarily ADMITS Charge 3 of the
20 Superseding Violation Petition. He was convicted of a new law violation as charged in
the petition and was sent to prison. He did violate the mandatory condition, which states,
21 "The defendant shall not commit another federal, state, or local crime."

22 Mr. Pacheco also acknowledges and understands that he has a right to a revocation
23 hearing concerning Charge 3 of the Superseding Violation Petition, where the
24 government would bear the burden of proving Charge 3 by a preponderance of the
evidence. Mr. Pacheco agrees that in admitting this violation, he understands all of his
25 rights under Federal Rule of Criminal Procedure 32.1(b)(2), and that he has received the
opportunity to exercise all of those rights, including the right to a revocation hearing, the
right to written notice of the alleged violation, the right to disclosure of the evidence
against him, the right to an opportunity to appear, present evidence, and question any
26 adverse witness, the right to be represented by appointed counsel, and the right to an
adverse witness, the right to be represented by appointed counsel, and the right to an
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1 opportunity to make a statement and present information in mitigation. Pursuant to
2 Federal Rule of Criminal Procedure 32.1(b)(2), Mr. Pacheco waives any further exercise
of those rights in agreeing to this stipulation.

3 Similarly, Mr. Pacheco acknowledges and understands all of his rights under Federal
4 Rule of Criminal Procedure 32.1(c), including his right to a hearing before the Court
5 modifies the conditions of his supervised release, his right to counsel, and his right to an
6 opportunity to make a statement and present any information in mitigation. Pursuant to
7 Federal Rule of Criminal Procedure 32.1(c)(2)(A), Mr. Pacheco explicitly waives each of
Charge 3 of the Superseding Violation Petition.

8 With respect to his personal appearance in Court, Mr. Pacheco fully waives his right to a
9 court appearance regarding Charge 3 of the Superseding Violation Petition. Mr. Pacheco
10 is currently serving a term in California state prison and seeks to resolve this matter prior
11 to his release date. He has fully spoken with counsel and agrees to this stipulation and
12 these requests. He has personally signed this stipulation. Should any additional
13 documents require his signature, Mr. Pacheco agrees that counsel may sign on his behalf
pursuant to CAED General Order 616. Mr. Pacheco has spoken with her fully and
authorized her to sign on his behalf as needed as well as to waive any further Court
appearance on this matter.¹

14 3. The parties and the Probation Office jointly stipulate and request the following:

15 That the Court accept Mr. Pacheco's waivers in this stipulation and agree to proceed
without a court appearance.

16 That the Court accept Mr. Pacheco's admission to Charge 3 of the Superseding Violation
Petition and enter it on the record.

17 That the Court find Mr. Pacheco in violation of his terms of supervised release imposed
on January 6, 1997.

18 That the Court enter an order sentencing Mr. Pacheco to time served.

19 That the Court not impose any additional term of supervision.

20 That the Court issue an order recalling the arrest warrant in this case.

21 That the Court dismiss the remaining charges in the superseding violation petition.

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28 ¹ CAED General Order 616 states that "where a defendant's signature is called for, unless otherwise ordered
by the court, defense counsel may sign electronically on the defendant's behalf using the format '/s/ name' and file
the signed document electronically after defendant has an opportunity to consult with counsel and consents to
counsel's signing on defendant's behalf."

4. The parties agree to this disposition in light of the age of Mr. Pacheco's prior federal case (1996), the age of his violation behavior (2010), the amount of time he has served in state prison (over 10 years), his current age (73 years old) and the fact that he will be over 74 years old on the date of his earliest possible release, the fact that he will serve additional time in state prison prior to his predicted parole eligibility date in December 2021, the pendency of a separate Federal parole violation warrant based on the same conduct, and the availability of the state parole authority to provide immediate and effective supervision of Mr. Pacheco upon his release.

Respectfully submitted,

Dated: December 14, 2020

HEATHER WILLIAMS
Federal Defender

/s/ Rachelle Barbour

RACHELLE BARBOUR
Assistant Federal Defender
Attorney for DENNIS PACHECO
Defendant

Dated: December 9, 2020

/s/ Dennis Pacheco (signed copy with counsel)

DENNIS PACHECO
Defendant

Dated: December 14, 2020

McGREGOR W. SCOTT
United States Attorney

/s/ Michele Beckwith

MICHELE BECKWITH
Assistant United States Attorney

Dated: December 141, 2020

/s/ Shannon Morehouse

SHANNON MOREHOUSE
Supervising United States Probation Officer

ORDER

The Court hereby adopts the stipulations and requests above and will issue a Judgment and Commitment Order consistent with them. The Court accepts Mr. Pacheco's admission to Charge 3 and finds him in violation of his terms of supervised release. The Court dismisses the remaining charges. The Court sentences Mr. Pacheco to time served with no term of supervision to follow. The Court hereby vacates the arrest warrant in this case.

Dated: December 15, 2020.

CHIEF UNITED STATES DISTRICT JUDGE